

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,) Case No.
) 4:15-CR-6049-EFS-10, 16, 21
Plaintiff,)
) October 10, 2018
v.)
) Richland, Washington
BRITTNEY LEE ZARAGOZA (10),) **EXCERPT**
EDGAR OMAR HERRERA FARIAS (16),) Final Pretrial
MIGUEL REYES GARCIA (21),) Conference/Change of Plea
) Hearings
Defendants.) Pages 1 to 67

BEFORE THE HONORABLE EDWARD F. SHEA
SENIOR UNITED STATES DISTRICT COURT JUDGE

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1 (October 10, 2018; 9:11 a.m.)

2 THE COURTROOM DEPUTY: Please rise.

3 (Call to Order of the Court.)

4 THE COURT: Good morning. Please be seated.

09:11:22 5 THE COURTROOM DEPUTY: Matter before the Court is *United*
6 *States of America v. Brittany Lee Zaragoza, Edgar Omar Herrera*
7 *Farias, and Miguel Reyes Garcia*, Cause No. 15-CR-6049-EFS,
8 Defendant Nos. 10, 16, and 21. Time set for final pretrial
9 conference, followed by a jury trial.

09:11:41 10 Counsel, please state your presence for the record.

11 MS. VAN MARTER: Good morning, Your Honor. Stephanie
12 Van Marter, Caitlin Baunsgard, and Task Force Officer Brazeau
13 present.

14 MR. LARA: Victor Lara for Ms. Zaragoza.

09:11:53 15 MR. THERRIEN: Ken Therrien for Miguel Reyes Garcia.

16 MR. SCHWEDA: And Pete Schweda for Mr. Herrera Farias.

17 THE COURT: Where is Mr. Herrera Farias?

18 MS. VAN MARTER: I think the marshals are bringing them
19 up.

09:12:10 20 THE COURTROOM DEPUTY: I'm sorry.

21 (Court and courtroom deputy conferring.)

22 (Defendant Herrera Farias and Defendant Reyes Garcia
23 entered the courtroom.)

24 THE COURT: All right. The case has been called. I
09:14:15 25 have considered the need for shackling, and I've entered an

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1 order to that effect.

2 Let's get started.

3 MS. VAN MARTER: Your Honor, we do have a change in
4 status.

09:14:23 5 THE COURT: What is the change of status?

6 MS. VAN MARTER: It's my understanding that Mr. Farias
7 and Mr. Miguel Reyes Garcia are going to be entering pleas of
8 guilty to Count 1. There is no written plea agreement. The
9 United States --

09:14:35 10 THE COURT: I'm sorry? Pursuant to a written plea
11 agreement?

12 MS. VAN MARTER: There is no written plea agreement.
13 The United States, however, as to each defendant will orally
14 agree that it will not seek a leader/organizer enhancement for
09:14:49 15 either defendant, and that it will recommend they receive two
16 levels, not three, for acceptance of responsibility. Other than
17 that, everything is open, including the defendants' right to
18 appeal their sentence.

19 THE COURT: Well, I've gone through this before with
09:15:21 20 Mr. Reyes Garcia, and it was unsuccessful.

21 What makes you think it's going to change?

22 MS. VAN MARTER: All I can tell the Court is I have been
23 advised that it will go through this morning, and that they
24 would like the opportunity to change their plea.

09:15:37 25 THE COURT: Hmm. Okay.

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1 Okay. Well, let's start with -- with you, Mr. Schweda.
2 Why don't you come to the podium.

3 MR. SCHWEDA: With my client, Your Honor?

4 THE COURT: Yes.

09:17:14

5

6 CHANGE OF PLEA COLLOQUY REGARDING EDGAR OMAR HERRERA FARIAS AND
7 MIGUEL REYES GARCIA

8

9 MR. SCHWEDA: I need to -- if I need a copy of the
10 indictment, I need to retrieve it. I didn't bring it up.

09:17:27

11 THE COURT: I didn't hear what you said.

12 MR. SCHWEDA: If my client needs to have a copy of the
13 indictment in front of him, I need to retrieve it from --

14 THE COURT: It's up to you.

09:17:40

15 MR. SCHWEDA: I think he understands what he's charged
16 with.

17 THE COURT: I don't know. Have you gone over it with
18 him?

19 MR. SCHWEDA: Yes.

09:17:47

20 THE COURT: Well, listen, I think probably you need to
21 tell me what's going on, because I'm perplexed. You've been
22 filing motions, and suddenly you're telling me there's a
23 possible plea today.

24 MR. SCHWEDA: Correct, Your Honor. I spent a couple
25 hours with my client earlier this morning, and he's said he

09:18:03

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1 wants to enter a guilty plea now.

2 THE COURT: Okay. And the guilty plea is to what count
3 of the indictment?

4 MR. SCHWEDA: Count 1.

09:20:06 5 (Court and law clerk conferring.)

6 THE COURT: That's not what I need.

7 (Court and law clerk conferring.)

8 THE COURT: I'm trying to remember, using as a
9 template -- wasn't there a notice that Mr. Vieth filed to plead
10 his client without a plea agreement? I seem to recall that.

09:20:16 11 Isn't that right?

12 MS. VAN MARTER: He did, Your Honor.

13 THE COURT: Okay. That's what I want.

14 Okay. Do you recall that? You weren't here, were you?

09:20:26 15 MS. VAN MARTER: Yes, I was, Your Honor; I was by video.

16 THE COURT: Okay.

17 MS. VAN MARTER: And he did file a notice that had a
18 summary. It was pretty specific to Mr. Casillas.

09:20:38 19 THE COURT: Well, it was, and it wasn't. It has the
20 general outline of a plea agreement, and so that's what I was
21 looking for.

22 Okay. Thanks.

09:20:54 23 If there's somebody else that pled to Count 1, let me --
24 remind me, and we'll pull that plea agreement as an outline to
25 orally go through this with these two.

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1 MS. VAN MARTER: The Court could pull Ms. Rosa
2 Granados'.

3 THE COURT: Did she plead to Count 1?

4 MS. VAN MARTER: Yes, she did.

09:21:05

5 THE COURT: Okay. Rosa Granados' plea agreement then,
6 Cora. Thank you.

7 What stipulations, if any, or -- are there to the drugs
8 and the amount of drugs for this defendant?

09:24:07

9 MR. SCHWEDA: There are none from the defendant, Your
10 Honor.

11 MS. VAN MARTER: You mean in terms of the proposed plea?

12 THE COURT: Yes.

13 MS. VAN MARTER: There are no stipulations. It's open
14 for the parties to argue.

09:24:13

15 THE COURT: Okay.

16 (Court and courtroom deputy conferring.)

09:25:10

17 THE COURT: Let me understand this. Ms. Van Marter, are
18 you telling me that -- I've read your brief, your trial brief,
19 and my recollection is in your trial brief, you're very specific
20 about this individual being the person who took over after Ivan
21 was -- Calvillo was killed.

09:25:29

22 MS. VAN MARTER: Your Honor, actually, the first person
23 who took over after Ivan was killed was an individual by the
24 name of Juan Pablo Gonzalez, known as AR. Then he was removed
25 from the picture. There was a period of time where the

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1 witnesses will indicate that this defendant did take over some
2 operations. However, he was deported back down to Mexico.

3 THE COURT: And continued, according to your
4 confidential sources, to work with Ivan Calvillo down in Mexico.

09:25:47 5 MS. VAN MARTER: That is correct.

6 THE COURT: And so part of the plea deal that you're
7 negotiating is you're not going to seek leader/organizer.

8 MS. VAN MARTER: We are not going to seek
9 leader/organizer if he pleads today.

09:26:01 10 THE COURT: Does he have a prior drug distribution?

11 MS. VAN MARTER: He has a prior drug conviction that was
12 part of --

13 THE COURT: It was drug distribution, wasn't it?

14 MS. VAN MARTER: It was for possession with intent to
09:26:10 15 distribute.

16 THE COURT: Okay.

17 MS. VAN MARTER: It was during the course of this
18 conspiracy.

19 THE COURT: Does that qualify for an 851?

09:26:15 20 MS. VAN MARTER: We have not filed it as an 851 because

21 of its relationship to this conspiracy. That's -- part of the
22 evidence that we would seek to admit at trial was from that
23 search warrant, and we litigated that in the pretrial phase.
24 That was the LEAD search warrant, if the Court recalls, that was
09:26:31 25 executed at his residence. That was in 2012, right in the

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1 middle of his involvement in this conspiracy.

2 So we are using that as substantive evidence of his
3 involvement in the conspiracy, but we have not filed an
4 enhancement based upon his prior.

09:26:46

5 THE COURT: Okay. All right.

6 A couple of other things. Let's see, so only two levels
7 for timely acceptance is recommended.

8 MS. VAN MARTER: From the United States, Your Honor,
9 yes.

09:27:04

10 THE COURT: This is the day set for trial.

11 You're telling me that -- you're still saying this is
12 timely acceptance? Because I don't see that. I don't get it.

13 MS. VAN MARTER: The United States is agreeing to make
14 that recommendation to this Court. There is no written
15 agreement between the parties. The defendant understands the
16 Court will make its own determination. However, we've done
17 something similar in *United States v. Cano*, where if they wanted
18 to come in and change their plea the day of trial, we would
19 recommend a two-level off.

09:27:31

20 However, sentencing is still open. So the defendant
21 knows he will pleading to a mandatory minimum ten-year count.
22 We will not seek the additional enhancement for
23 leader/organizer, and we will recommend two levels off.

24 Other than that, everything else is still open.

09:27:47

25 THE COURT: Well, it's all open. You can make what

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1 recommendations you want.

2 MS. VAN MARTER: Correct.

3 THE COURT: But it's open because I haven't decided what
4 I'm going to do.

09:27:56 5 MS. VAN MARTER: Correct.

6 THE COURT: And I haven't seen what the probation
7 officer is going to recommend under the history of the case.

8 MS. VAN MARTER: Correct.

9 THE COURT: Which may be that he qualifies for
10 leader/organizer.

11 MS. VAN MARTER: Correct.

12 THE COURT: Okay. Is he on a deportation hold --

13 MS. VAN MARTER: Yes, Your Honor.

14 THE COURT: -- by ICE?

09:28:18 15 Okay. Thank you.

16 Oh, I think probably one other thing. Why don't you
17 make a proffer of the facts that you believe support this guilty
18 plea.

19 MS. VAN MARTER: Yes, Your Honor.

09:28:33 20 THE COURT: Excuse me.

21 Step back.

22 (Counsel and defendant returned to counsel table.)

23 MS. VAN MARTER: All right. Your Honor, the factual
24 proffer in support of a plea --

09:28:51 25 THE COURT: Excuse me. I'm sorry. I did ask for that,

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1 but I need one other thing.

2 Mr. Schweda, I want you and your client to listen
3 carefully to this proffer, because I'm going to ask you specific
4 questions about it, and I want to make sure that you, of record,
09:29:06 5 have a recitation of or an agreement or disagreement with
6 specific facts.

7 Go ahead.

8 Would I find much of this in your trial brief?

9 MS. VAN MARTER: It is, Your Honor.

09:29:20 10 THE COURT: Okay. Let me take a look at that.

11 MS. VAN MARTER: In fact, I was going to refer to that
12 ECF number as a basis of the United States' proffer for both
13 Mr. Farias and Mr. Miguel Reyes Garcia.

14 THE COURT: Okay.

09:29:38 15 MS. VAN MARTER: We're trying to get a copy right now I
16 could hand up to the Court.

17 THE COURT: It's not that. It's that I have a lot of
18 binders.

19 I need the trial binder. I have everything but the
09:29:50 20 trial binder.

21 Would you check my desk and the tables upstairs? Thank
22 you for that.

23 Give us a second, Ms. Van Marter. I want to get a copy
24 of that, and it's in my trial binder upstairs, and I just --
09:30:20 25 more binders; I forgot to count them.

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1 THE COURTROOM DEPUTY: Is it something I can print? I'm
2 not sure what you're needing.

3 THE COURT: I think Reina is going to print it.
4 What's the ECF?

09:30:37 5 MS. VAN MARTER: 950.

6 THE COURT: 950. Thanks.

7 MS. VAN MARTER: I can hand my copy up to the Court.

8 THE COURT: No, that's all right. We'll get one.
9 Thanks.

09:31:14 10 THE COURT: All right. I do have a copy. The court
11 reporter is kind enough to give me hers, but print one anyway in
12 case she needs it back to follow some of the facts.

13 Let's take a look at the factual background. And this
14 is on Page -- yes. Okay. So Page 2 of 950 begins on Line 17
09:31:35 15 with "Defendant Farias," and recites what you believe the
16 evidence will show regarding his participation in this
17 conspiracy based on the testimony of several different
18 undercover agents and cooperating defendants; is that right?

19 MS. VAN MARTER: That is correct. And there was also
09:31:54 20 some independent pieces of evidence. For instance, as the
21 defendant was identified as a distributor and transporter for
22 Ivan Calvillo, that included transporting backpackers up to the
23 trail system for the purpose of backpacking what was a
24 consistent amount of 20 kilos per time up into Canada and a
09:32:18 25 return of drug cash proceeds.

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1 There was a location, a house on Eastlake Road that was
2 identified as utilized by the organization. A defendant,
3 Veronica Cortez, was staged in that house to make it look like a
4 normal home. She would accept backpackers to and from.

09:32:35

5 Some of the independent corroborating evidence is the
6 defendant --

7 THE COURT: Was there a woman involved who -- she was
8 there just to maintain the appearance of a normal home --

9 MS. VAN MARTER: Yes, she --

09:32:46

10 THE COURT: -- and it was a stash or a waypoint for
11 these transporters; is that right?

12 MS. VAN MARTER: That's correct. She has already pled
13 and been sentenced based upon her role.

14 THE COURT: That's what I recall, yeah.

09:32:56

15 MS. VAN MARTER: She -- I apologize, Your Honor.

16 THE COURT: Who was it?

17 MS. VAN MARTER: Veronica Cortez.

18 THE COURT: Veronica Cortez. Okay. Thanks.

09:33:04

19 MS. VAN MARTER: This defendant, for instance, had
20 vehicles registered in his name at the Eastlake Road address, as
21 well as vehicles that were identified as having secret
22 compartments contained in them that they would utilize to secret
23 the backpacks and narcotics as it would travel up to the
24 Canadian border. So there was some independent, verifiable
25 evidence by way of records in the defendant's name tied not only

09:33:25

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1 to the stash house but also to several load vehicles.

2 During the time of the investigation, LEAD ended up
3 executing a search warrant on the defendant's residence. There
4 was a co-defendant that had lived there with him, who is still a
09:33:43 5 fugitive, has not been arrested at this time.

6 On Page 3 of the United States' trial memorandum, it
7 lists the evidence that was located during the course of that
8 search warrant, to include quantities of methamphetamine,
9 digital scales, firearms, and ledgers.

09:34:01 10 THE COURT: Let me catch up with you.

11 I'm there. On Page 3 of 950.

12 MS. VAN MARTER: Yes, Your Honor.

13 THE COURT: Okay.

14 MS. VAN MARTER: Consistent with his identified role in
09:34:14 15 the investigation, as the Court also recalls, there was a period
16 of time when Mr. Calvillo was caught down in California and
17 deported during a reverse kilo transaction. During that time
18 period --

19 THE COURT: Are you talking about this defendant?

09:34:32 20 MS. VAN MARTER: No, Mr. Calvillo, Ivan.

21 THE COURT: Okay. So there was that stop, and he was
22 deported but no charges brought, and there was a -- it was like
23 40 kilos or something?

24 MS. VAN MARTER: It was 40 pounds, 20 kilos. But
09:34:47 25 Ivan Calvillo brought over 400,000 --

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1 THE COURT: So it was a lot.

2 MS. VAN MARTER: It was a lot.

3 THE COURT: And they didn't charge anybody.

4 MS. VAN MARTER: They just deported them, yes, Your

09:34:53 5 Honor. And Ivan's wife, Gabriela Mendoza, was present with

6 their child --

7 THE COURT: I recall.

8 MS. VAN MARTER: -- and she was released from the scene.

9 THE COURT: I sentenced her to three years, didn't I?

09:35:03 10 MS. VAN MARTER: Yes, 30 months.

11 After that point in time, Calvillo, Ivan, remained in

12 Mexico --

13 THE COURT: Right.

14 MS. VAN MARTER: -- during operations.

09:35:11 15 This defendant was deported after the August -- or,

16 excuse me, the search warrant by LEAD, which occurred in March

17 of 2012. He returned to the district and returned, as will be

18 testified by witnesses, assisting in transportation until he was

19 again caught in September of 2013 driving a vehicle registered

09:35:32 20 to co-defendant Rosa Granados.

21 THE COURT: Do you have sworn statements from your
22 undercover people?

23 MS. VAN MARTER: (Nodded.)

24 THE COURT: Sworn statements, declarations under oath?

09:35:44 25 MS. VAN MARTER: There are some witnesses who testified

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1 before the grand jury, but not all of the cooperating defendants
2 that did testify have previous sworn statements.

3 THE COURT: For sentencing purposes, when you're
4 asserting what the facts are, then those statements will or will
09:35:58 5 not be used?

6 MS. VAN MARTER: They may be used. We may also decide
7 whether we're going to call any of them for purposes of the
8 sentencing hearing. But there were sworn statements by
9 individuals who provided testimony as to this defendant
09:36:11 10 previously.

11 THE COURT: Okay. All right. So I'm reading 950. I'm
12 on Page 3 and 4. Okay.

13 MS. VAN MARTER: Your Honor, during the time when Ivan
14 was first deported back, as I indicated, the operation was put
09:36:26 15 in the charge of an individual by the name of AR-15 for a period
16 of time. That individual would testify as to the defendant's
17 continued involvement until he was again deported in September
18 of 2013, and that is the subject of that additional traffic stop
19 that occurred in Mount Vernon -- or not traffic stop, excuse me,
09:36:47 20 enforcement action that occurred in Mount Vernon where the
21 defendant was with a truck that had previously been utilized by
22 the organization that also had a secret compartment, that was
23 placed in the name of Rosa Granados, and there were narcotics
24 and a firearm located in that vehicle as well.

09:37:02 25 The defendant was deported again after that arrest,

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1 remained in Mexico on -- for periods of time. The testimony
2 will be that he assisted other individuals who were hired or
3 recruited by the organization, for instance, Mr. Jimenez, who
4 was utilized to transport backpackers up to the border after the
5 defendant.

09:37:22

6 Mr. Jimenez, when deported, was assisted by Ivan and
7 Mr. Farias to come back into the country in order to work for
8 the organization. They kept him at a safe house in Tijuana for
9 a period of time, paid for his crossing or his coyote fees so he
10 could go back to work for the organization. Mr. Jimenez was
11 caught with two backpacks full of 20 kilos of cocaine during his
12 time working for the organization.

09:37:41

13 The defendant, while in Mexico, continued to do things
14 at the request of Ivan up until the time of his death.

09:37:57

15 THE COURT: I think you're right; 950 lays out all of
16 the factual basis that you think you could prove at time of
17 trial, and you've recited a good deal of it. But I think
18 probably, for example, CD-4 on Page 8 -- CD-4 on Page 8, has
19 that person been identified to the defendants?

09:38:18

20 MS. VAN MARTER: Yes.

21 THE COURT: And who is that? They know who it is, so --
22 I just can't remember -- I just don't know who it is. And that
23 person was a cooperating defendant --

24 MS. VAN MARTER: Yes, Your Honor.

09:38:28

25 THE COURT: -- who was going to testify?

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1 MS. VAN MARTER: Yes, Your Honor. I am just making sure
2 I have my numbers correct in my head. There are three who have
3 been identified in this summary. One is Rosa Granados.

4 THE COURT: Okay. Ms. Granados. And then who else?

09:38:41

5 MS. VAN MARTER: AR-15, one Pablo Mendoza.

6 THE COURT: Give me a second. Granados. Mendoza.

7 And?

8 MS. VAN MARTER: Mr. Jimenez Ranchero.

9 THE COURT: Jimenez.

09:38:56

10 And they were going to testify as to this gentleman's
11 role in the conspiracy?

12 MS. VAN MARTER: That is correct.

13 THE COURT: Okay. I think I've got enough. Thanks very
14 much. I just wanted to refresh my memory of that.

09:39:06

15 MS. VAN MARTER: Thank you, Your Honor.

16 THE COURT: Okay. Mr. Schweda. Let's get started.

17 Mr. Farias.

18 MR. SCHWEDA: May I have one word with my client, Your
19 Honor?

09:39:18

20 THE COURT: Yeah.

21 (Counsel and defendant conferring.)

22 THE COURT: Have you sworn him in yet?

23 THE COURTROOM DEPUTY: I have not yet, Judge.

24 THE COURT: Okay. Let's swear him in in the beginning.

09:39:41

25 (Counsel and defendant conferring.)

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1 THE COURT: Mr. Schweda, if you're not ready, we can do
2 something else.

3 MR. SCHWEDA: No, Your Honor. We're ready.

4 THE COURTROOM DEPUTY: Will you please raise your right
5 hand?

09:41:21

6

7 EDGAR OMAR HERRERA FARIAS CHANGE OF PLEA COLLOQUY WITH THE COURT

8

9 EDGAR OMAR HERRERA FARIAS,

10 having first sworn or affirmed, testified under oath as

11 follows:

12 DEFENDANT HERRERA FARIAS (through the interpreter):

13 Yes.

14 THE COURT: Is your true name Edgar Omar Herrera Farias?

09:42:01

15 DEFENDANT HERRERA FARIAS (through the interpreter):

16 Yes.

17 THE COURT: Do you go by the nickname Burro?

18 DEFENDANT HERRERA FARIAS (through the interpreter): Um,

19 yes.

09:42:13

20 THE COURT: If at any time I ask you a question that you
21 don't understand, Mr. Farias, please tell me that, and I'll say
22 it in a different way.

23 Will you do that?

24 DEFENDANT HERRERA FARIAS (through the interpreter):

09:42:35

25 Well, regarding that question, some people do call me that way,

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1 but I don't always go by that name.

2 THE COURT: Okay. Thank you for the clarification.

3 What's the highest grade in school that you completed?

4 DEFENDANT HERRERA FARIAS (through the interpreter):

09:42:55 5 Secondary school.

6 THE COURT: Okay. Are you under the care of a physician
7 for any condition?

8 DEFENDANT HERRERA FARIAS (through the interpreter): No.

9 THE COURT: Are you taking medication prescribed for you
09:43:32 10 by a physician?

11 DEFENDANT HERRERA FARIAS (through the interpreter): Not
12 right now.

13 THE COURT: As you stand before me right now, are you
14 under the influence of drugs or alcohol?

09:43:47 15 DEFENDANT HERRERA FARIAS (through the interpreter): No.

16 THE COURT: Has anybody threatened you or any member of
17 your family to force you to plead guilty to Count 1 of your
18 indictment?

19 DEFENDANT HERRERA FARIAS (through the interpreter): No.

09:44:00 20 THE COURT: Before you decided to plead guilty, have you
21 conferred with your attorney, Mr. Schweda, on more than one
22 occasion?

23 DEFENDANT HERRERA FARIAS (through the interpreter):
24 Yes.

09:44:11 25 THE COURT: I've looked at his vouchers for billing, and

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1 I noticed that he and his investigator have met with you over
2 the months of this year.

3 Is that true?

4 DEFENDANT HERRERA FARIAS (through the interpreter):

09:44:26 5 Yes.

6 THE COURT: And that was at the Benton County jail,
7 correct?

8 DEFENDANT HERRERA FARIAS (through the interpreter):
9 Yes, that's correct.

09:44:32 10 THE COURT: Do you speak English?

11 DEFENDANT HERRERA FARIAS (through the interpreter):
12 Some.

13 THE COURT: Even if you think you know what I ask you,
14 you think you know what I said in English, please wait for the
09:44:44 15 interpreter.

16 Would you do that for me?

17 DEFENDANT HERRERA FARIAS (through the interpreter):
18 Yes.

19 THE COURT: At some point Mr. Schweda discussed the
09:45:00 20 possibility of pleading guilty to some, one or more of the
21 counts in the indictment; is that true?

22 DEFENDANT HERRERA FARIAS (through the interpreter):
23 Yes. That's correct.

24 THE COURT: And then today you met with him; is that
09:45:17 25 correct?

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1 DEFENDANT HERRERA FARIAS (through the interpreter):

2 Yes, that's correct.

3 THE COURT: For how long did you meet today?

4 DEFENDANT HERRERA FARIAS (through the interpreter):

09:45:25 5 Today?

6 THE COURT: Yes.

7 DEFENDANT HERRERA FARIAS (through the interpreter): 30,
8 40 minutes.

09:45:38 9 THE COURT: I thought Mr. Schweda said he met with you
10 for a couple of hours.

11 DEFENDANT HERRERA FARIAS (through the interpreter):
12 Maybe I just lost track of time.

13 THE COURT: Mr. Schweda?

09:45:53 14 MR. SCHWEDA: Your Honor, I was here about 7:15, and
15 maybe it wasn't quite two hours, but it was over an hour and a
16 half that I met with him. So ...

17 THE COURT: Before today had Mr. Schweda talked with you
18 about the possibility of pleading guilty?

09:46:04 19 DEFENDANT HERRERA FARIAS (through the interpreter):
20 Yes.

21 THE COURT: And then you and he would talk about what
22 was in your best interest and how things should go; is that
23 true?

09:46:14 24 DEFENDANT HERRERA FARIAS (through the interpreter):
25 Yes.

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1 THE COURT: And he used a person who spoke Spanish that
2 you understood when he met with you; is that true?

3 DEFENDANT HERRERA FARIAS (through the interpreter):
4 Yes, a private investigator.

09:46:27

5 THE COURT: Right. And what was his name?

6 MR. SCHWEDA: Larry Valadez.

7 THE COURT: Mr. Valadez used to work at U.S. Probation
8 Office here in the district; is that correct?

9 MR. SCHWEDA: Yes, Your Honor.

09:46:38

10 THE COURT: And you understood the Spanish that
11 Mr. Valadez used; is that correct?

12 DEFENDANT HERRERA FARIAS (through the interpreter):
13 Yes.

09:46:49

14 THE COURT: And at some point today your attorney came
15 to you and you talked about whether you would enter a plea
16 rather than go through a trial; is that correct?

17 DEFENDANT HERRERA FARIAS (through the interpreter):
18 Yes, today, in the morning.

09:47:05

19 MR. SCHWEDA: May I interrupt, Your Honor? Mr. Valadez
20 was connected; I had him on the telephone, and he interpreted
21 the full time that we were speaking together --

22 THE COURT: Is that correct, Mr. Farias?

23 DEFENDANT HERRERA FARIAS (through the interpreter):
24 Yes, that's correct.

09:47:17

25 THE COURT: And you decided now to plead guilty to

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1 Count 1; is that true?

2 DEFENDANT HERRERA FARIAS (through the interpreter):

3 Yes, that's what he recommended.

4 THE COURT: And you believe that to be in your best
09:47:32 5 interest?

6 DEFENDANT HERRERA FARIAS (through the interpreter): I
7 think so.

8 THE COURT: Okay. Well, this is your -- this is your
9 situation. I'm required to give you a fair trial and a timely
09:47:46 10 trial. I have a jury waiting to go to trial today, and they're
11 ready to go, as am I and my staff, who have all put in many
12 hours to be prepared to give you a fair trial in this matter
13 today. So this is -- this is your case, and you can do as you
14 wish.

09:48:05 15 Is it your wish to go ahead and plead guilty to Count 1
16 charging you with a conspiracy?

17 DEFENDANT HERRERA FARIAS (through the interpreter): I
18 will plead guilty.

19 THE COURT: Okay. Are you satisfied with the services
09:48:22 20 of your attorney, Mr. Schweda?

21 DEFENDANT HERRERA FARIAS (through the interpreter):
22 Yes.

23 THE COURT: Okay. You have a number of rights under the
24 United States Constitution. By pleading guilty, you will give
09:48:40 25 up these rights. Please listen carefully. You have a right to

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1 plead not guilty and to persist in that plea. By entering a
2 plea of not guilty, you're presumed to be innocent. The
3 Government then must prove your guilt beyond a reasonable doubt
4 at trial. At all stages of the proceedings, you're entitled to
09:49:01 5 have the services of an attorney to assist you, and if you
6 cannot afford one, one will be appointed at no expense to you.
7 So even if there's no trial because I accept your plea of
8 guilty, you still have the right to those free legal services
9 for assistance with sentencing and any appeal that you wish to
09:49:22 10 file.

11 At trial, you and the attorney have a right to subpoena
12 people and require them to come to court and testify for you,
13 and you have a right to question all of the witnesses at trial
14 while they're under oath. At trial, you could decide whether or
09:49:39 15 not you will plead guilty, whether you will call any witnesses,
16 or whether you will put on any evidence.

17 If at such a trial you decided that you were not going
18 to testify, I would tell the jury that they could not consider
19 that in determining your guilt to the charges against you.

09:50:04 20 Do you understand that you have each of these rights?

21 DEFENDANT HERRERA FARIAS (through the interpreter):

22 Yes, I do.

23 THE COURT: And do you understand by pleading guilty to
24 Count 1 of the second superseding indictment, if I accept the
09:50:17 25 plea, there will not be a trial, and you'll have given up these

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1 valuable rights? Do you understand that?

2 DEFENDANT HERRERA FARIAS (through the interpreter):

3 Yes. Yes, I do.

4 THE COURT: If at any time you think you need to talk

09:50:33 5 privately with your attorney, just tell me that you do, and I'll
6 give you that time.

7 Do you understand?

8 DEFENDANT HERRERA FARIAS (through the interpreter):

9 Yes. Thank you.

09:50:43 10 THE COURT: Okay. Count 1 of the second superseding
11 indictment filed on December 6th, 2016, charges you with
12 conspiracy to distribute 500 grams or more of a mixture or
13 substance containing a detectable amount of methamphetamine,
14 5 kilograms or more of cocaine, one kilogram or more of heroin,
09:51:27 15 and 400 grams or more of N-phenyl-N propanamide, which is
16 thought of as fentanyl, in violation of 21, United States Code,
17 841(a) (1), (b) (1) (A) (i), (ii) (I), (vi), (viii); all in violation of
18 21, United States Code, Section 846.

19 Is it your intention to plead guilty to that count?

09:52:10 20 DEFENDANT HERRERA FARIAS (through the interpreter):

21 Could I have a minute to talk to my attorney?

22 THE COURT: Certainly.

23 (Counsel and Defendant Herrera Farias conferring.)

24 THE COURT: Ms. Van Marter, while they're conferring,

09:54:01 25 I'm going to ask about Ms. Zaragoza.

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1 What is the status of that case?

2 MS. VAN MARTER: Your Honor, depending how these next
3 two go, we were going to ask the Court for a brief recess so
4 that Mr. Lara and I could have a conversation. It obviously
09:54:15 5 changes everything in terms of the presentation of evidence.

6 THE COURT: All right.

7 And you, Mr. Therrien, your client is -- you think he's
8 going to plead guilty today?

9 MR. THERRIEN: I think he's going to plead guilty today.

09:54:28 10 THE COURT: To Count 1? To Count 1?

11 MR. THERRIEN: To Count 1.

12 THE COURT: Without a plea agreement.

13 MR. THERRIEN: Without a plea agreement.

14 THE COURT: Wasn't there a proposed plea agreement in
09:54:37 15 this case?

16 MS. VAN MARTER: There was, Your Honor, and I -- I was
17 not -- that's the video plea that I had to leave.

18 THE COURT: I recall.

19 MS. VAN MARTER: And so there was one particular fact in
09:54:49 20 that proposed plea that I'm going to correct. This defendant
21 did not receive instructions directly from the UC on any money
22 drops, so other than that, all the facts as we previously
23 proposed would be a good basis for the Court, as well as what's
24 contained in the trial memorandum on 950.

09:55:06 25 THE COURT: So what we should do is pull that plea

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1 agreement and use that as a model in his case?

2 MS. VAN MARTER: We could use that as a model, or we
3 could also use the trial brief, as we used with Mr. Farias.

4 THE COURT: Okay. All right. Let's see.

09:55:21

5 Mr. Reyes Garcia, are you prepared to enter a plea
6 today? Isn't that your client, Mr. Therrien?

7 DEFENDANT REYES GARCIA (through the interpreter): Yes.

09:55:36

8 THE COURT: Okay. Well, I'm ready to proceed with them
9 while these other folks take care of their business. We've got
10 a jury waiting.

11 So if you'd like to get started with your client, that
12 will be great. Let's start him.

13 Can you break the record, Kim, and we can pick up again
14 on Mr. Farias when he and his attorneys are finished?

09:55:46

15
16 MIGUEL REYES GARCIA CHANGE OF PLEA COLLOQUY WITH THE COURT

17

18 THE COURTROOM DEPUTY: Will you please raise your right
19 hand?

09:55:56

20
21 MIGUEL REYES GARCIA,
22 having first sworn or affirmed, testified under oath as follows:

23 THE DEFENDANT REYES GARCIA (through the interpreter):
24 Yes.

09:56:14

25 THE COURT: Okay. Pull a copy of that proposed plea the

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1 last time we had it.

2 Okay. Your true name, let's see, is Miguel Reyes
3 Garcia, correct?

4 DEFENDANT REYES GARCIA (through the interpreter): Yes.

09:56:43 5 THE COURT: And, Mr. Reyes Garcia, you and I have gone
6 through this before, haven't we?

7 DEFENDANT REYES GARCIA (through the interpreter): Yes.

8 THE COURT: Okay. And you know that I didn't accept
9 your plea because you were not willing to admit the facts that
09:56:55 10 would support the plea.

11 Are you prepared to do that today?

12 DEFENDANT REYES GARCIA (through the interpreter): Yes.

13 THE COURT: And I want to remind you that you sent a
14 letter to me.

09:57:05 15 Do you remember sending that letter to me?

16 DEFENDANT REYES GARCIA (through the interpreter): Yes.

17 THE COURT: Okay. That letter contained statements by
18 you that -- that are -- that support the plea of guilty to
19 Count 1. Whatever -- what you said in that letter was enough to
09:57:25 20 convict you. In other words, if a jury heard that, the jury
21 would, in my mind, would convict you of Count 1.

22 That's what you put in the letter, and when I saw the
23 letter I said to myself, "This gentleman has just told me all I
24 need to know to support his conviction under Count 1." Now,
09:57:47 25 if -- so that's my position, what you put in there. So it

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1 didn't surprise me that you want to plead guilty, because with
2 that letter, I believe you admitted all of the elements of the
3 crime charged in Count 1.

4 What is your position, Mr. Therrien?

09:58:03

5 MR. THERRIEN: I would agree with that, Your Honor.

6 THE COURT: Okay. Well, I want to go through this with
7 you, and I don't want to waste my time or your time. Please
8 remember that my job is to get you a fair trial today, and I've
9 got a jury waiting, and they're prepared to come up here. My

09:58:18

10 staff and I are all ready to go. We've prepared fully for this,
11 and we're ready to rule on all of the motions that are pending,
12 and to bring in the jury and to swear them in and to get you a
13 trial on the charges in the indictment. That's what I'm
14 required to do, and we're prepared to do that.

09:58:34

15 Do you understand?

16 DEFENDANT REYES GARCIA (through the interpreter): Yes,
17 I do.

18 THE COURT: Okay. What do you want to do today? Do you
19 want to plead guilty to Count 1? I mean, are you going to? You
20 may not want to, but are you going to plead guilty to Count 1?

09:58:44

21 DEFENDANT REYES GARCIA (through the interpreter): Yes.

22 THE COURT: And will you be pleading guilty because you
23 truly are guilty?

24 DEFENDANT REYES GARCIA (through the interpreter): Yes.

09:58:57

25 THE COURT: Okay. Count 1 of the second superseding

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1 indictment charges you with, let's see, conspiracy to distribute
2 500 grams or more of a mixture or substance containing a
3 detectable amount of methamphetamine, 5 kilograms or more of
4 cocaine, 1 kilogram or more of heroin, and 4 grams -- 400 grams
09:59:24 5 or more of N-phenyl-N propanamide, which is known as fentanyl,
6 in violation of 21, United States Code, Section 841(a)(1),
7 (b)(1)(A)(i), (ii)(I), and (vi); all in violation of 21, United
8 States Code, Section 846. That's Count 1.

9 Is that your intention, to plead guilty to that count?

09:59:56 10 DEFENDANT REYES GARCIA (through the interpreter): Yes.

11 THE COURT: That is a Class A felony, and it carries
12 these penalties by law, by statute: Not less than ten years in
13 prison, which cannot be suspended or paroled, up to a maximum
14 possible penalty of life in prison; a fine not to exceed
10:00:12 15 \$10 million; a term of supervised release of not less than five
16 years up to life; denial of certain benefits here in the United
17 States; and a \$100 mandatory payment.

18 Do you understand those are the maximum penalties?

19 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:00:30 20 THE COURT: For the benefit of the parties and the
21 defendants, the jury is supposed to be up here at 10 o'clock.
22 It is now after 10:00. I propose to have my judicial assistant
23 tell the jury that the attorneys and the judge are conferring,
24 and that it will be approximately an hour before we are ready
10:00:57 25 for them.

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1 MS. VAN MARTER: I have no objection to that, Your
2 Honor.

3 MR. THERRIEN: No objection, Your Honor.

4 MR. LARA: No objection, Your Honor.

10:01:06 5 MR. SCHWEDA: No objection.

6 THE COURT: And so they're free to -- they can get a cup
7 of coffee, walk around; they don't have to stay in the
8 auditorium, but they cannot leave the building. And they have
9 to be in the building, and we'll be with them at approximately
10 11 o'clock.

10:01:21 10
11 Okay?

12 All right. Then let's resume, Mr. Reyes Garcia.

13 Since we've gone through this before, you know that if
14 you need to talk with your attorney, I'll give you that time,
15 don't you?

10:01:43 15
16 DEFENDANT REYES GARCIA (through the interpreter): Yes.

17 THE COURT: And you know that if I ask you a question
18 that you don't understand, that you can just tell me to -- that
19 you don't, and I'll say it in a different way, right?

10:01:55 20 Is that correct?

21 DEFENDANT REYES GARCIA (through the interpreter): Yes.

22 THE COURT: As you stand before me right now, are you
23 under the influence of drugs or alcohol?

24 DEFENDANT REYES GARCIA (through the interpreter): No.

10:02:00 25 THE COURT: Has anybody prescribed -- or are you taking

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1 medication prescribed for you by a medical care provider?

2 DEFENDANT REYES GARCIA (through the interpreter): No.

3 THE COURT: Are you under the care of a medical care
4 provider?

10:02:11 5 DEFENDANT REYES GARCIA (through the interpreter): No.

6 THE COURT: Has anybody threatened you to force you to
7 agree to plead guilty today?

8 DEFENDANT REYES GARCIA (through the interpreter): No.

9 THE COURT: Is it your intention to plead guilty today
10:02:23 10 without a written plea agreement?

11 DEFENDANT REYES GARCIA (through the interpreter): Yes.

12 THE COURT: Now, before, you have signed a plea
13 agreement in the past, haven't you?

14 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:02:33 15 THE COURT: Okay. But that's not on the table today.
16 You understand this is different?

17 DEFENDANT REYES GARCIA (through the interpreter): Yes.

18 THE COURT: Okay. So whatever you had negotiated with
19 the U.S. Attorney then, that's not the negotiation. Today it's
10:02:49 20 just a plea of guilty to Count 1, and I'll go through that with
21 you.

22 Do you understand that?

23 DEFENDANT REYES GARCIA (through the interpreter): Yes.

24 THE COURT: Has anybody threatened you to -- you say no
10:02:59 25 one threatened you.

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1 Is that correct?

2 DEFENDANT REYES GARCIA (through the interpreter): No,
3 nobody.

10:03:05 4 THE COURT: Okay. And you've fully discussed this with
5 your attorney, Mr. Therrien, on more than one occasion, haven't
6 you?

7 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:03:15 8 THE COURT: Because we had a written plea agreement that
9 I went through the last time we were here, and I didn't accept
10 your plea.

11 Remember that?

12 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:03:26 13 THE COURT: Okay. And since then you've had contact
14 with Mr. Therrien, correct? Mr. Therrien has called you, come
15 and visited you; that sort of thing?

16 DEFENDANT REYES GARCIA (through the interpreter): Yes.

17 MR. THERRIEN: I have.

18 THE COURT: Okay. And you've used an investigator as
19 well; is that correct?

10:03:35 20 MR. THERRIEN: Yes, I have.

21 THE COURT: And that was Mr. ...?

22 MR. THERRIEN: Abel Campos.

23 THE COURT: Mr. Campos?

24 MR. THERRIEN: Yes.

10:03:41 25 THE COURT: And he's fluent in Spanish?

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1 MR. THERRIEN: Yes.

2 THE COURT: Did you understand the Spanish that
3 Mr. Campos used when he interpreted for you and Mr. Therrien?

4 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:03:49 5 MR. THERRIEN: Your Honor, for the record, most of the
6 time when I met with him with Mr. Campos, I also had an
7 interpreter as well, so there was very rarely that I -- I just
8 wanted --

9 THE COURT: Who was speaking Spanish, Mr. Campos or
10:04:02 10 someone else?

11 MR. THERRIEN: Ms. Castro was the interpreter. When she
12 wasn't there, it was Mr. Campos.

13 THE COURT: All right. You recognize that both
14 Ms. Castro and Mr. Campos used Spanish that you understood; is
10:04:16 15 that right?

16 DEFENDANT REYES GARCIA (through the interpreter): Yes.

17 THE COURT: And while this is a difficult time for you,
18 Mr. Reyes Garcia, because nobody wants to -- likes the notion of
19 pleading guilty and going to prison, Mr. Therrien has fully
10:04:28 20 explained what the consequences will be of a trial, hasn't he?

21 DEFENDANT REYES GARCIA (through the interpreter): Yes.

22 THE COURT: And he's explained what the Government's
23 evidence is; isn't that right?

24 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:04:36 25 THE COURT: And he's told you about the people who will

1 testify against you; isn't that true?

2 DEFENDANT REYES GARCIA (through the interpreter): Yes.

3 THE COURT: And those are some people who are also
4 charged in this case and have pled guilty; is that right?

10:04:50 5 DEFENDANT REYES GARCIA (through the interpreter):
6 That's right.

7 THE COURT: Okay. The maximum penalties I think I've
8 told you about, but let me make sure that I've done that
9 correctly.

10:05:05 10 It's a Class A felony, the maximum penalties: Not less
11 than ten years, cannot be suspended, cannot be paroled; possible
12 maximum penalty under the law of life in prison; a fine not to
13 exceed \$10 million; a term of supervised release of not less
14 than five years up to life of supervised release; denial of
10:05:28 15 certain federal United States benefits; and a \$100 mandatory
16 payment.

17 Do you understand those are the maximum penalties by
18 law?

19 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:05:38 20 THE COURT: And that supervised release is that period
21 of time, Mr. Reyes Garcia, when you have to follow the
22 conditions that I impose, or if I find at a hearing that you've
23 violated those conditions, I have the authority to put you back
24 in prison for the full term of the supervised release without
10:05:56 25 any credit for time you've already served on post-release

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1 supervision.

2 Do you understand?

3 DEFENDANT REYES GARCIA (through the interpreter): Yes.

4 THE COURT: So it's important that you follow the
10:06:05 5 conditions, right?

6 DEFENDANT REYES GARCIA (through the interpreter): Yes.

7 THE COURT: Okay. Under the 21, United States Code,
8 Section 862(a), you're no longer eligible for various food stamp
9 program benefits, such as Temporary Assistance For Needy
10:06:24 10 Families.

11 Do you understand?

12 DEFENDANT REYES GARCIA (through the interpreter): Yes.

13 THE COURT: And at sentencing I will decide whether to
14 deny you other federal benefits under 21, United States Code,
10:06:33 15 Section 862.

16 Do you understand?

17 DEFENDANT REYES GARCIA (through the interpreter): Yes.

18 THE COURT: As you know, this is an agreement -- this,
19 actually, this is not an agreement. You simply have decided to
10:06:45 20 plead guilty.

21 And the Government -- have you made any agreements with
22 this gentleman?

23 MS. VAN MARTER: Your Honor, the same as Mr. Farias; the
24 United States will agree to not seek a leader/organizer
10:06:59 25 enhancement.

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1 THE COURT: Okay.

2 MS. VAN MARTER: And we will agree to recommend to the
3 Court two levels, not three levels, for acceptance of
4 responsibility. Other than that, everything else is open.

10:07:08 5 THE COURT: Okay. Thank you.

6 Is that what your understanding is?

7 DEFENDANT REYES GARCIA (through the interpreter): Yes.

8 THE COURT: Okay. Because of the -- because of the
9 nature of this crime, it is virtually certain that you will be
10:07:19 10 deported from this country.

11 Do you understand that?

12 DEFENDANT REYES GARCIA (through the interpreter): Yes.

13 THE COURT: I'm not an immigration judge, and I can't
14 tell you that with absolute certainty, but because of the kind
10:07:30 15 of crime charged in Count 1 of the second superseding
16 indictment, it is -- it is almost automatic that you'll be
17 removed from the United States and can never return legally.

18 Knowing that, do you still wish to plead guilty to
19 Count 1 of your second superseding indictment?

10:07:49 20 DEFENDANT REYES GARCIA (through the interpreter): Yes.

21 THE COURT: Okay. To convict you of the crime charged
22 in Count 1, which I've already outlined for you, the Government
23 has to prove beyond a reasonable doubt at trial the three
24 elements of that crime. First, beginning on a day unknown but
10:08:07 25 by on or about January 2010, continuing until on or about

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1 December 6th, 2016, you, here in the Eastern District, entered
2 into an agreement with one or more persons to commit the crime
3 of distribution of methamphetamine and/or cocaine and/or heroin
4 and/or fentanyl as charged in that second superseding
10:08:37 5 indictment; second, you became a member of that conspiracy
6 knowing of at least one of its objects and intending to help
7 accomplish it; and, third, the agreement to distribute involved
8 more than 500 grams or more of a mixture or substance containing
9 a detectable amount of methamphetamine, 5 kilograms or more of
10:09:00 10 cocaine, 1 kilogram or more of heroin, and 400 grams or more of
11 fentanyl, and would be reasonable foreseeable to a member of
12 that conspiracy.

13 Do you understand that's what the Government has to
14 prove to convict you at trial of Count 1?

10:09:20 15 DEFENDANT REYES GARCIA (through the interpreter): Yes.

16 THE COURT: Okay. In every case I have to do a
17 sentencing guideline analysis and calculation. I don't have to
18 follow that, but it advises me what a reasonable sentence might
19 be in your case.

10:09:41 20 There's no agreement here, but it would appear that,
21 given the nature of your drugs, the drugs in Count 1, and
22 depending upon the amount, it's possible that your offense level
23 could begin at 38, and there may or may not be some additions to
24 that offense level. I can't tell you that.

10:10:05 25 The Government says that it will not -- that it will

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1 recommend two levels for timely acceptance of responsibility. I
2 don't know what other increases or decreases might apply, so I
3 can't tell you what a Final Offense Level would be in your case.

4 I also can't tell you what your Criminal History
10:10:27 5 Category is because I don't have the report that will tell me
6 all about your criminal history, if any, so I can't tell you
7 today what your -- what the guideline calculations are because
8 there's no written plea agreement, no agreement of the parties,
9 and I don't have the probation report about you.

10:10:43 10 Do you understand? So I can't tell you what the range
11 of imprisonment might be.

12 What I can tell you is the mandatory minimum is ten
13 years. That's what I have to impose at least, all the way up to
14 life.

10:10:58 15 Do you understand that?

16 DEFENDANT REYES GARCIA (through the interpreter): Yes.

17 THE COURT: Okay. Do you agree that there's no
18 agreement between you and the Government about length of prison
19 time or incarceration? Is that correct?

10:11:22 20 DEFENDANT REYES GARCIA (through the interpreter): Yes.

21 THE COURT: I have to impose a criminal fine against
22 you, unless I make a finding that you just cannot afford to pay
23 it.

24 Do you understand?

10:11:33 25 DEFENDANT REYES GARCIA (through the interpreter): Yes.

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1 THE COURT: There's \$100 that you have to pay.

2 Will you agree to pay it while you're in prison or at
3 the time of sentencing?

4 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:11:52 5 THE COURT: Since this is an agreement without -- since
6 you're pleading guilty without a plea agreement, there is --
7 many of the things that I've talked with you before are not
8 applicable now. So, for example, you still have the right to
9 appeal this case.

10:12:09 10 Do you understand that?

11 DEFENDANT REYES GARCIA (through the interpreter): Yes.

12 THE COURT: All right. Mr. Therrien, have you read,
13 through an interpreter, Count 1 of the second superseding
14 indictment to your client?

10:12:40 15 MR. THERRIEN: I haven't had the opportunity to do that
16 today, Judge.

17 THE COURT: Well, you read it to him before when --

18 MR. THERRIEN: Right.

19 THE COURT: -- I assume when it was the plea agreement
10:12:49 20 in --

21 MR. THERRIEN: Well, the Court went through it on his
22 previous plea agreement.

23 THE COURT: Right. I did.

24 And so I'm going to read it to you now. This is Count 1
10:12:58 25 of the second superseding indictment.

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(Reading): Beginning on a date unknown, but by on or about January 2010, continuing until on or about December 6th, 2016, in the Eastern District of Washington and elsewhere, the defendants, Jese -- well, there are a number of defendants listed in that, including yourself, Miguel Reyes Garcia, among others, such at Alexis Palomino and Rosa Granados, and all the others named in the second superseding indictment in Count 1, did knowingly and intentionally combine, conspire, confederate, and agree together and with each other and with other persons, both known and unknown to the grand jury, to commit the following offenses against the United States, to wit:

distribution of 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine, 1 kilogram or more of a mixture or substance containing a detectable amount of heroin, and 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N propanamide, all Schedule II controlled substances in violation of 21, United States Code, Section 848, 841(a) (1) (b) (1) (A) (i), (ii) (I), (vi), (viii); all in violation of 21, United States Code, Section 846.

To that count of the second superseding indictment how do you plead, Mr. Reyes Garcia, guilty or not guilty?

DEFENDANT REYES GARCIA (through the interpreter):
Guilty.

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1 THE COURT: Are you pleading guilty because you truly
2 are guilty?

3 DEFENDANT REYES GARCIA (through the interpreter): Yes.

4 THE COURT: Okay. Were you -- were you -- between

10:15:10

5 January 10th of 2010 -- I'm sorry, between January 2010 and
6 December 6th of 2016, were you from time to time here in the
7 Eastern District of Washington?

8 DEFENDANT REYES GARCIA (through the interpreter): Yes.

9 THE COURT: And during that time, were you working with

10:15:29

10 an organization that was conspiring to distribute various drugs?

11 DEFENDANT REYES GARCIA (through the interpreter): Yes.

12 THE COURT: And those drugs were the ones I just read to
13 you in the second superseding indictment; is that true?

14 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:15:45

15 THE COURT: And tell me what your role was. So, for
16 example, I know that you were with backpackers and went into
17 British Columbia.

18 Is that correct?

19 DEFENDANT REYES GARCIA (through the interpreter):

10:15:57

20 That's right.

21 THE COURT: Did you know the backpackers were carrying
22 drugs?

23 DEFENDANT REYES GARCIA (through the interpreter): Yes,
24 I -- I did.

10:17:00

25 THE COURT: Did you work with Ivan Calvillo?

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1 DEFENDANT REYES GARCIA (through the interpreter): Yes.

2 THE COURT: And is it true that you would utilize a
3 piece of currency, the serial number on a piece of currency,
4 like a dollar bill or a \$5 bill or some denomination, and you
10:17:21 5 would use the serial number on that as a -- as an introduction
6 or a confirmation? Is that correct?

7 MS. VAN MARTER: No, Your Honor. That should actually
8 read "Defendant Casillas." I apologize. It is not -- this
9 defendant did not have to do with the money transactions.

10:17:37 10 THE COURT: That's what it says, 950 --

11 MS. VAN MARTER: Correct.

12 THE COURT: -- Page 10.

13 MS. VAN MARTER: Yes, and I needed to amend that to say
14 "Defendant Casillas," not this defendant.

10:17:44 15 THE COURT: Okay. Thank you.

16 MS. VAN MARTER: This defendant was utilized for the
17 purpose of the backpacking, and also identified as a
18 distributor, and there's some additional information from an
19 individual who would have provided testimony.

10:17:54 20 THE COURT: Thank you.

21 So on August 26th, 2015, were you in British Columbia?

22 DEFENDANT REYES GARCIA (through the interpreter): Yes.

23 THE COURT: And you got into British Columbia how?

24 DEFENDANT REYES GARCIA (through the interpreter):

10:18:12 25 Walking through the woods.

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1 THE COURT: And why did you walk through the woods?

2 DEFENDANT REYES GARCIA (through the interpreter):

3 That's the way they were going, and I was just following them.

4 THE COURT: And you were going with them because you'd
10:18:33 5 been told to go with them; is that correct?

6 DEFENDANT REYES GARCIA (through the interpreter): Yes.

7 THE COURT: And you were told to go with them because
8 there had been some money involved in a drug transaction that
9 you were going to check on; is that true?

10:18:54 10 DEFENDANT REYES GARCIA (through the interpreter): There
11 was money that hadn't been paid to a person, and I was supposed
12 to go see if the drugs were there or -- or if the money was
13 there.

14 THE COURT: All right. So you knew it was drugs or
10:19:03 15 money that you were going to check on, correct?

16 DEFENDANT REYES GARCIA (through the interpreter): Uh,
17 yes.

18 THE COURT: Okay. So you knew that this was part of a
19 conspiracy to bring drugs or money back and forth between the
10:19:17 20 United States and Canada; isn't that true?

21 DEFENDANT REYES GARCIA (through the interpreter): Yes.

22 THE COURT: Okay. And you agree that the Government
23 could prove at trial that the conspiracy charged in Count 1 of
24 the second superseding indictment, that it could prove that
10:19:54 25 those drugs involved distribution, or an agreement to distribute

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1 more than 500 grams or more of a mixture or substance containing
2 a detectable amount of methamphetamine, correct?

3 DEFENDANT REYES GARCIA (through the interpreter): Yes.

4 THE COURT: And they could prove that it was, the

10:20:09 5 conspiracy involved 5 kilograms or more of cocaine, correct?

6 DEFENDANT REYES GARCIA (through the interpreter): Yes.

7 THE COURT: And could prove 1 kilogram or more of
8 heroin, and 400 grams or more of fentanyl, true?

9 DEFENDANT REYES GARCIA (through the interpreter): Yes.

10:20:22 10 THE COURT: And that they could prove that beyond a
11 reasonable doubt; isn't that true?

12 DEFENDANT REYES GARCIA (through the interpreter): Yes.

13 THE COURT: And so you were part of that conspiracy, and
14 they could prove that beyond a reasonable doubt; is that true?

10:20:35 15 DEFENDANT REYES GARCIA (through the interpreter): Yes.

16 THE COURT: Okay. I believe that contains all I need
17 for the recitation for the elements.

18 Anything I've overlooked, from either defendant or from
19 the Government?

10:20:46 20 MS. VAN MARTER: No, Your Honor.

21 MR. THERRIEN: No, Your Honor.

22 THE COURT: I think I've completed everything on this
23 case. The Court accepts the plea as knowing, intelligent, and
24 voluntary; not induced by fear, or coercion, or ignorance; and
10:21:02 25 the facts admitted to by Mr. Miguel Reyes Garcia constitute the

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1 elements of the crime charged in Count 1 of the second
2 superseding indictment.

3 All pending motions are denied as moot as to him, and
4 I've signed the order accepting that plea. I'm going to set
10:21:22 5 Tuesday, March 12th, 2019, at 10:45 a.m. in Richland as the
6 time, date, and place for sentencing. That will be set for a
7 45-minute hearing.

8 Thirty-five days prior to that time, Mr. Reyes Garcia,
9 you will receive a copy of a presentence report. It's a report
10:21:45 10 about you.

11 Mr. Hare, who is doing that report?

12 THE PROBATION OFFICER: Your Honor, it will be Officer
13 Cassie Lurch from our Spokane office.

14 THE COURT: Okay. And that's Cass --

10:21:58 15 THE PROBATION OFFICER: Cassie Lurch.

16 THE COURT: Okay. She will be doing the report. And
17 Mr. Therrien will explain that process to you and your
18 participation, if any, in that process.

19 Fourteen days from the time you get that report you have
10:22:12 20 to file any objections to it or any motions you want me to think
21 about or hear at sentencing or you will have given them up.

22 Do you understand what I've explained to you?

23 DEFENDANT REYES GARCIA (through the interpreter): Yes.

24 THE COURT: Okay. Is that date convenient for the
10:22:27 25 parties?

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1 MR. THERRIEN: As far as I know it is, Your Honor.

2 MS. VAN MARTER: Yes, Your Honor.

3 THE COURT: Okay. Then I will sign that order as of
4 today.

10:22:36 5 Mr. Reyes Garcia, Mr. Therrien will go over that order
6 with you and explain what you need to do or what you should do.
7 Okay?

8 DEFENDANT REYES GARCIA (through the interpreter): Okay.

9 THE COURT: I believe that completes matters today for
10:22:49 10 you, Mr. Therrien. Okay.

11 MR. THERRIEN: Thank you.

12 THE COURT: Mr. Schweda, have you resolved any issues
13 that you had with your client?

14 MR. SCHWEDA: I believe we're ready to proceed, Your
10:23:00 15 Honor.

16 THE COURT: You're going to proceed?

17 MR. SCHWEDA: Yes.

18 THE COURT: Okay.

10:23:06 19
20 CONTINUATION OF THE CHANGE OF PLEA COLLOQUY WITH THE COURT OF
21 EDGAR OMAR HERRERA FARIAS

22
23 THE COURT: Can the court reporter retrace that and
24 remind me where we left off?

10:23:13 25 (Pause in proceedings; Court and court reporter

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1 conferring.)

2 THE COURT: Okay. Let's get started then.

3 Count 1 of the -- we'll resume with this. Let me just
4 check one other thing.

10:25:22 5 All right. So we're dealing with the charge in Count 1
6 of the second superseding indictment. I've already reviewed
7 that with you, and you understand that -- or tell me, are you
8 going to plead guilty to that count today?

9 DEFENDANT HERRERA FARIAS (through the interpreter):
10:25:51 10 Yes. Possession? Yes.

11 THE COURT: Hmm. It charges you with conspiracy. So
12 there's a difference between conspiracy and possession.

13 It's conspiracy to possess with intent to distribute,
14 right?

10:26:17 15 DEFENDANT HERRERA FARIAS (through the interpreter):
16 Yes. Correct.

17 THE COURT: Okay. Actually, it's conspiracy to
18 distribute. So having that in mind, Count 1 of the second
19 superseding indictment -- and you've gone over that fully with
10:26:31 20 your client, Mr. Schweda?

21 MR. SCHWEDA: Yes, Your Honor; many times.

22 THE COURT: Okay. That's a Class A felony. It carries
23 these maximum penalties by law, by statute: Not less than ten
24 years in prison, which cannot be suspended or paroled; a maximum
10:26:49 25 possible penalty of life imprisonment; a fine not to exceed

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1 \$10 million; a term of supervised release of not less than five
2 years up to a life term; denial of certain United States federal
3 benefits; and a \$100 mandatory payment.

4 Do you understand those are the maximum penalties?

10:27:11 5 DEFENDANT HERRERA FARIAS (through the interpreter):

6 Yes.

7 THE COURT: Supervised release, Mr. Reyes -- sorry,
8 Mr. Farias, is that time after imprisonment which you have to
9 follow the conditions I impose, and it's important that you do
10:27:26 10 that because if at a hearing I find that you've violated those
11 conditions, then I can send you back to prison for the full term
12 of the supervised release without any credit that you -- for
13 service of your time after you've been released from prison.

14 Do you understand the importance of following those
10:27:48 15 conditions?

16 DEFENDANT HERRERA FARIAS (through the interpreter):

17 Yes.

18 THE COURT: Okay. Under 21, United States Code,
19 Section 862(a), you're no longer eligible for any food stamp
10:28:03 20 program benefits. Under 21, United States Code, Section 862, at
21 sentencing I'll decide whether to grant or deny other benefits
22 available here in the United States.

23 Do you understand what I've explained?

24 DEFENDANT HERRERA FARIAS (through the interpreter):

10:28:21 25 Yes.

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1 THE COURT: Okay. This is the kind of crime charged in
2 Count 1 of the second superseding indictment that makes you
3 ineligible to remain in the United States. It is virtually
4 certain that you will be deported and that you can never return
5 to the United States legally.

10:28:37

6 Knowing that, do you nevertheless want to continue with
7 your plea to Count 1 of the second superseding indictment?

8 DEFENDANT HERRERA FARIAS (through the interpreter):
9 Yes, I understand that.

10:28:52

10 THE COURT: Okay. To convict you of the crime charged
11 in Count 1 of the second superseding indictment, which I've
12 articulated for the record already with you, having that count
13 in mind, here are the elements that the Government has to prove
14 beyond a reasonable doubt to convict you of Count 1; that is,
15 the conspiracy to distribute the drugs that are listed: First,
16 beginning on a date unknown, but by on or about January 20th,
17 continuing -- January of 2010, continuing until on or about
18 December 6th, 2016, the Defendant Miguel -- I'm sorry,
19 Mr. Farias, in the Eastern District of Washington entered into
20 an agreement with one or more persons to commit the crime of
21 distribution of methamphetamine and/or cocaine and/or heroin
22 and/or fentanyl as charged in the second superseding indictment;
23 that you, Mr. Farias, became a member of the conspiracy knowing
24 of at least one of its objects and intending to help accomplish
25 it; and, third, the -- the agreement to distribute involved more

10:29:16

10:29:46

10:30:08

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1 than 500 grams or more of a mixture or substance containing a
2 detectable amount of methamphetamine, 5 kilograms or more of
3 cocaine, 1 kilogram or more of heroin, and 400 grams or more of
4 fentanyl, and would be reasonably foreseeable to a member of
10:30:35 5 that agreement or conspiracy.

6 Do you understand what I've explained to you, that
7 that's what the Government has to prove to convict you of
8 Count 1? Do you understand that?

9 MR. SCHWEDA: Your Honor, if I may interject? My client
10:30:50 10 was only involved with methamphetamine, and he didn't know about
11 the other drugs. And I think that Ms. Van Marter would indicate
12 that there was no other evidence. So he is pleading guilty to
13 Count 1 because he was involved in a conspiracy that involved
14 500 or more grams of a mixture containing methamphetamine.

10:31:11 15 THE COURT: Well, he may be pleading guilty to that, but
16 the Government can prove by evidence beyond a reasonable doubt
17 that the conspiracy involved all of those drugs in those
18 amounts; isn't that true?

19 MR. SCHWEDA: We agree that the Government -- the
10:31:24 20 Government has presented us with evidence that -- that they can
21 prove that. We would agree --

22 THE COURT: Beyond a reasonable doubt.

23 MR. SCHWEDA: Beyond a reasonable doubt, yes.

24 THE COURT: While his role may have been -- in the
10:31:34 25 conspiracy was -- of which drug?

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1 MR. SCHWEDA: Methamphetamine.

2 THE COURT: -- methamphetamine in the amounts indicated,
3 500 grams or more; nevertheless, at trial, the Government
4 charged in Count 1, and has to prove beyond a reasonable doubt,
10:31:50 5 the conspiracy involved all of those drugs. And whether he was
6 involved with one or more of the drugs, given the evidence you
7 know the Government has, you agree he would be found guilty of
8 that.

9 Isn't that true?

10:32:02 10 DEFENDANT HERRERA FARIAS (through the interpreter): (No
11 audible answer.)

12 THE COURT: Isn't that true?

13 DEFENDANT HERRERA FARIAS (through the interpreter):
14 Yes.

10:32:09 15 THE COURT: Okay. In every sentencing I have to do a
16 guideline calculation. The guidelines tell me what a reasonable
17 sentence might be.

18 I don't know -- I can't do that for you today, and I
19 never do it at the time of plea. I only do it at sentencing.
10:32:36 20 And I cannot tell you in advance what a reasonable sentence
21 might be under the guidelines. I can't do that because I don't
22 know your criminal history. I know a little of your criminal
23 history, what's been represented as your prior conviction, but I
24 don't know that that's accurate, so I can't tell you what your
10:32:55 25 Criminal History Category is. That's one of the two factors in

1 the guideline calculation.

2 I also can't tell you about the Base Offense Level,
3 although it would appear to be a 38; that is, where you begin.
4 And there might be additions or subtractions from that. I don't
10:33:16 5 know, because the parties don't have a written plea agreement,
6 and they're not telling me they have an agreement of any kind in
7 that regard.

8 So the only agreement that I -- so I can't tell you what
9 your range of imprisonment might be under the guidelines.

10:33:30 10 Even if I could, I'm not bound to follow the guidelines.
11 They advise me what a reasonable sentence might be. I'll listen
12 to you and Mr. Schweda; I'll listen to the Government attorney;
13 we'll all read a report about you called a presentence
14 investigation report; and after that, I'll look at the law, the
10:33:52 15 statute, and then I will impose a sentence that is sufficient
16 but not greater than necessary to carry out the goals and the
17 purposes of that sentencing law.

18 Do you understand that's how I'll proceed?

19 DEFENDANT HERRERA FARIAS (through the interpreter):

10:34:09 20 Yes. Yes, I do.

21 THE COURT: I have to impose a criminal fine against you
22 unless I find you and your family just cannot afford to pay it.

23 Do you understand?

24 DEFENDANT HERRERA FARIAS (through the interpreter):

10:34:30 25 Yes.

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1 THE COURT: There's \$100 you have to pay, and I will --
2 it's required that you pay it, and you can pay it either at
3 sentencing, but -- or while you're in prison, that's up to you,
4 because you haven't agreed to do that; or you can be forced to
5 pay it while you're on supervised release.

6 Do you understand there's \$100 you have to pay?

7 DEFENDANT HERRERA FARIAS (through the interpreter):
8 Yes. Yes, I do.

9 THE COURT: Have you reviewed the Count 1 of the second
10 superseding indictment with your client?

11 MR. SCHWEDA: Yes, Your Honor.

12 THE COURT: And did you do that using an interpreter or
13 a translator today?

14 MR. SCHWEDA: Not today, Your Honor, but I've done it
15 many times before.

16 THE COURT: Okay. Count 1 of the second superseding
17 indictment charges you with the crime as follows: Beginning on
18 a date unknown but by on or about January 2010, continuing until
19 on or about December 6th, 2016, in the Eastern District of
20 Washington and elsewhere, the Defendants, Jese David Carillo
21 Casillas, Rosa Granados, and all of the others that are
22 mentioned in the second superseding indictment, including Miguel
23 Reyes Garcia and yourself -- that is, Edgar Omar Herrera Farias,
24 a.k.a. Burro -- did knowingly and intentionally combine,
25 conspire, confederate, and agree together and with each and

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1 other persons, both known and unknown to the grand jury, to
2 commit the following offense against the United States, to wit:
3 distribution of 500 grams or more of a mixture or substance
4 containing a detectable amount of methamphetamine, 5 kilograms
10:36:37 5 or more of a mixture or substance containing a detectable amount
6 of cocaine, 1 kilogram or more of a mixture or substance
7 containing a detectable amount of heroin, and 400 grams or more
8 of a mixture or substance containing a detectable amount of
9 N-phenyl-N propanamide, all Schedule II controlled substances,
10:37:06 10 in violation of 21, United States Code, 841(a) (1)
11 (b) (I) (A) (i), (ii) (I), (vi), (viii); all in violation of 21,
12 United States Code, Section 846.

13 To that count in the second superseding indictment,
14 Mr. Farias, how do you plead, guilty or not guilty?

10:37:36 15 DEFENDANT HERRERA FARIAS (through the interpreter):
16 Guilty.

17 THE COURT: Mr. Farias, are you pleading guilty because
18 you truly are guilty?

19 DEFENDANT HERRERA FARIAS (through the interpreter):
10:37:42 20 Yes.

21 THE COURT: Okay. Between January of 2010 until on or
22 about December 6th, 2016, were you from time to time present
23 here in the Eastern District of Washington?

24 DEFENDANT HERRERA FARIAS (through the interpreter):
10:38:54 25 Yes.

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1 THE COURT: And during that same time period, did you
2 spend time in the country of Mexico?

3 DEFENDANT HERRERA FARIAS (through the interpreter):
4 Yes.

10:39:03 5 THE COURT: And were you working with Ivan Calvillo?

6 DEFENDANT HERRERA FARIAS (through the interpreter):
7 Where? I apologize.

8 THE COURT: Ivan Calvillo was a person that you knew?

9 DEFENDANT HERRERA FARIAS (through the interpreter):
10:39:24 10 Yes, I do -- I did know him.

11 THE COURT: And you worked with him as part of this
12 conspiracy to distribute drugs; isn't that true?

13 DEFENDANT HERRERA FARIAS (through the interpreter):
14 Yes, I did it.

10:39:36 15 THE COURT: Okay. And there were others that you worked
16 with as well. Give me a couple of names.

17 MR. SCHWEDA: Your Honor, a lot of these, the facts that
18 are set forth by the Government are disputed, but my client is
19 pleading guilty to being -- conspiring with Ivan Calvillo and
10:39:58 20 knew that Mr. Calvillo had a larger drug trafficking
21 organization.

22 THE COURT: Well, that's a helpful clarification, but
23 the facts supporting the plea must be articulated by the
24 defendant himself.

10:40:14 25 MR. SCHWEDA: Right.

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1 THE COURT: And while that's a clarification, your
2 client has to admit the facts, if he wants to, in order for me
3 to accept the guilty plea. He doesn't have to admit them, and I
4 won't accept it, and we'll go to trial. That's up to him.

10:40:28 5 MR. SCHWEDA: Well, Your Honor, what I was trying to
6 avoid is that the recitation that the Government makes in their
7 trial submittal is not necessarily what my client agrees to are
8 the facts if the --

9 THE COURT: Well, it's only important that your client
10:40:43 10 agree that those facts could be proved beyond a reasonable doubt
11 at trial.

12 MR. SCHWEDA: Correct. And he's -- he's ready to agree
13 that he conspired with Ivan Calvillo to distribute drugs, he
14 distributed drugs on behalf of Mr. Calvillo, and he realized
10:41:00 15 that this was part of a larger conspiracy. If those questions
16 are propounded to Mr. Herrera Farias, he will admit to all of
17 them.

18 THE COURT: I'm not sure what you mean by that.

19 MR. SCHWEDA: Well, I guess the -- he only has to know
10:41:21 20 one of the objects of the conspiracy, and he only has to know
21 that there is the existence of a conspiracy, and agree with one
22 or more of the conspirators. And he's basically saying that he
23 conspired with Ivan Calvillo, distributed drugs for him, knew
24 that Ivan Calvillo had a larger drug trafficking organization.

10:41:53 25 THE COURT: Mr. Farias, you say you knew Ivan Calvillo;

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1 is that correct?

2 DEFENDANT HERRERA FARIAS (through the interpreter):

3 Yes, I did know him.

4 THE COURT: Okay. What did he do? What was -- what did
10:42:04 5 he do? Was he a distributor of drugs?

6 DEFENDANT HERRERA FARIAS (through the interpreter):
7 What I understood it to be, yes.

8 THE COURT: And you helped him do that; is that correct?

9 DEFENDANT HERRERA FARIAS (through the interpreter):
10:42:21 10 Yes.

11 THE COURT: Okay. And that occurred here in the United
12 States; is that correct?

13 DEFENDANT HERRERA FARIAS (through the interpreter):
14 Yes.

10:42:30 15 THE COURT: Okay. And you knew that there were others
16 involved in his -- in his organization and it was a larger
17 organization that involved others and other drugs; is that
18 correct?

19 DEFENDANT HERRERA FARIAS (through the interpreter):
10:42:50 20 Yes, even though I didn't know the other people.

21 THE COURT: So you had no -- let me get this straight
22 now. I want to make sure I understand this.

23 So you worked with Calvillo, correct?

24 DEFENDANT HERRERA FARIAS (through the interpreter):
10:43:04 25 That's right.

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1 THE COURT: And you distributed the drugs to other
2 people, correct?

3 DEFENDANT HERRERA FARIAS (through the interpreter):
4 Yes.

10:43:09 5 THE COURT: And you knew who those people were you
6 distributed those to because you distributed them on more than
7 one occasion, correct?

8 DEFENDANT HERRERA FARIAS (through the interpreter):
9 Yes.

10:43:19 10 THE COURT: Okay. And in your case, you agree that the
11 Government at trial could prove beyond a reasonable doubt that
12 the conspiracy involved not only 500 grams or more of a mixture
13 or substance containing a detectable amount of
14 methamphetamine -- you agree that they could prove that,
10:43:44 15 correct?

16 DEFENDANT HERRERA FARIAS (through the interpreter):
17 Yes.

18 THE COURT: And that that would make you guilty of
19 conspiracy to distribute under the second superseding
10:43:56 20 indictment, Count 1; is that correct?

21 DEFENDANT HERRERA FARIAS (through the interpreter):
22 Yes, I understand that.

23 THE COURT: And you agree to that; is that correct?

24 DEFENDANT HERRERA FARIAS (through the interpreter):
10:44:06 25 Yes.

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1 THE COURT: Okay. I think that satisfies the elements.
2 Ms. Van Marter, are you satisfied?

3 MS. VAN MARTER: I am, Your Honor. And I know before
4 the break -- and I apologize if this is repetitive -- the Court
10:44:19 5 discussed the fact that he was subject to deportation, I
6 believe. I just wanted to make sure I recalled that correctly.

7 THE COURT: Sure. Yeah, I think we did that, but let's
8 do it again, Mr. Farias.

9 Because of the crime, Count 1 of the second superseding
10:44:36 10 indictment, you can never come back to the United States.

11 Do you understand that?

12 DEFENDANT HERRERA FARIAS (through the interpreter): I
13 understand that perfectly fine.

14 THE COURT: Okay. That's a condition that I will make
10:44:48 15 as part of your supervised release, so when -- at sentencing, I
16 will tell you that one of the conditions that you must follow is
17 that you can never return to the United States without the
18 advance written or legal permission of the United States
19 Attorney General, or his or her designee; and that if you do so,
10:45:09 20 you must report to the probation office within 72 hours. That
21 will be a condition I impose.

22 It's important that you know that, because if you come
23 back to the United States after you're out of prison, then
24 you're going to be violating your supervised release, and I'll
10:45:26 25 have to put you back in prison for even more time.

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1 Do you understand what I'm explaining to you?

2 DEFENDANT HERRERA FARIAS (through the interpreter):

3 Yes, I understand that.

4 THE COURT: Okay. And so you've agreed that, knowing
10:45:37 5 that you're going to be deported and that you can never come
6 back to the United States, nevertheless, you are voluntarily
7 entering your plea of guilty to Count 1 of the second
8 superseding indictment.

9 Is that true?

10:45:54 10 DEFENDANT HERRERA FARIAS (through the interpreter):

11 That's right.

12 THE COURT: Is that correct?

13 DEFENDANT HERRERA FARIAS (through the interpreter):

14 Yes, it is correct.

10:46:00 15 THE COURT: Okay. Anything else, Mr. Schweda?

16 MR. SCHWEDA: No, Your Honor.

17 THE COURT: Okay. The Court accepts the plea as
18 knowing, intelligent, and voluntary; not induced by fear,
19 coercion, or ignorance; and the facts admitted to by Mr. Farias
10:46:12 20 in open court constitute the essential elements of the crime
21 charged in Count 1 of the second superseding indictment.

22 All pending motions are denied as moot, and the Court
23 will set a date next year, as soon as I have a deputy clerk back
24 in my courtroom who will tell me that date.

10:46:32 25 Have you conferred about that date, Mr. Schweda, with my

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1 deputy clerk?

2 MR. SCHWEDA: I have not, Your Honor. I just heard the
3 other date was March the 12th at 10:45, on Mr. Reyes Garcia.

4 THE COURT: Was it March 12th? I believe it was. We
10:46:51 5 are busy in March. Yeah, okay. So it's March.

6 So we'll set your date in March of 2019, Mr. Farias.
7 And I'm going to tell you that there's -- there will be
8 something called a presentence report. Mr. Schweda will explain
9 that to you.

10:47:09 10 And who's going to do that?

11 THE PROBATION OFFICER: Your Honor, Officer Cassie Lurch
12 will be doing this one as well.

13 THE COURT: Okay. The same person who does the other
14 one will do that. And so Mr. Schweda will explain your role, if
10:47:22 15 any, in that process.

16 Thirty-five days prior to the date of your sentencing
17 you will get a copy of that report, and if there are any --
18 anything that you object to, you must do so at that time. And
19 if there are motions you want to file and have me look at at the
10:47:37 20 time of sentencing, you must do so within 14 days of the time
21 that you receive that report.

22 I'll sign an order with the specific date and time, but
23 it will be March 12th at -- 2019 here in Richland at a time that
24 I will notify you about, and I'll sign orders to that effect.

10:47:57 25 Is there anything else we need to do to complete this

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1 matter today, Ms. Van Marter?

2 MS. VAN MARTER: No, Your Honor. Thank you.

3 THE COURT: Mr. Schweda?

4 MR. SCHWEDA: No, Your Honor.

10:48:03 5 THE COURT: Mr. Farias, do you have any questions?

6 DEFENDANT HERRERA FARIAS (through the interpreter): No.

7 THE COURT: Okay. That completes matters.

8 Okay. Ms. Van Marter, what's next?

9 MS. VAN MARTER: Your Honor, if we could take a brief
10:48:15 10 recess so I can --

11 THE COURT: What does "brief" mean?

12 MS. VAN MARTER: Fifteen minutes?

13 THE COURT: Fifteen?

14 MS. VAN MARTER: So I can speak to Mr. Lara.

10:48:22 15 THE COURT: Okay. I'm going to come back at 11:15.

16 MS. VAN MARTER: Thank you, Your Honor.

17 THE COURT: 25 minutes. I'm going to tell the jury that
18 we are still conferring, and that as a result of these
19 conferences, the trial will last -- will last less than we
10:48:37 20 had -- much less than we anticipated.

21 MS. VAN MARTER: Yes, Your Honor.

22 THE COURT: Is that okay?

23 MS. VAN MARTER: Yes, Your Honor.

24 THE COURT: Okay. There you go.

10:48:43 25 MS. VAN MARTER: Thank you.

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1 THE COURT: Okay. Let me know when you're ready.

2 (Recess then taken: 10:48 a.m.)

3 (Additional proceedings were reported but not requested to
4 be transcribed.)

11:16:58

5 (Hearing concluded at 11:16 a.m.)

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C E R T I F I C A T E

I, KIMBERLY J. ALLEN, do hereby certify:

That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Richland, Washington;

That the foregoing proceedings were taken on the date and at the time and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 29th day of April, 2019.



Kimberly J. Allen, CRR, RMR, RPR, CCR(WA)
Washington CCR No. 2758
Official Court Reporter
Richland, Washington